

COMBINED DECLARATION AND POWER OF ATTORNEY
FOR CONTINUATION-IN-PART APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: PROTEGRINS, the specification of which

(check one) ☐ is attached hereto
 ☒ was filed on 7 July 1995

as application serial no. 08/499,523 and was amended on _____ (if applicable).

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

"(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and

1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability."

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) and (b) set forth above which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.: 08/451,832

Filing Date: 26 May 1995

Status (patented, pending, abandoned): pending

Edward G. Durney - Reg. No. 37,611
Tyler Dylan - Reg. No. 37,612
Nancy Joyce Gracey - Reg. No. 28,216
Gary A. Green - Reg. No. 38,474
Stuart P. Kaler - Reg. No. 35,913
Paul C. Kimball - Reg. No. 34,641
Antoinette F. Konski - Reg. No. 34,202
Susan K. Lehnhardt - Reg. No. 33,943
Shmuel Livnat - Reg. No. 33,949
Harry J. Macey - Reg. No. 32,818
Gladys H. Monroy - Reg. No. 32,430
Kate H. Murashige - Reg. No. 29,959
Jackie N. Nakamura - Reg. No. 35,966
Freddie K. Park - Reg. No. 35,636
Robert A. Saltzberg - Reg. No. 36,910
Paul F. Schenck - Reg. No. 27,253
James R. Shay - Reg. No. 32,062
Debra A. Shetka - Reg. No. 33,309
Cecily Anne Snyder - Reg. No. 37,448
E. Thomas Wheelock - Reg. No. 28,825

and: _____

Address all correspondence to: Kate H. Murashige

MORRISON & FOERSTER
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006-1888

Address all telephone calls to: Kate H. Murashige at 202-887-1533.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name Inventor: Robert I. Lehrer 1-00

Signature: Robert I. Lehrer

Date Nov 15, 1995

Residence: Santa Monica CA 90403

Citizenship: USA

Post Office Address: 2730 Washington Avenue, Santa Monica, CA 90403;

Full Name Inventor: Sylvia S.L. Harwig 2-00

Signature: Sylvia S.L. Harwig

Date 11/28/95

Residence: Woodland Hills, California 91364

Citizenship: USA

Post Office Address: 911 Woodland Crest Drive, Woodland Hills, California 91364

Full Name Inventor: Vladimir N. Kokryakov 00-00

Signature: _____

Date _____

Residence: Los Angeles, CA 90036

Citizenship: USA

Post Office Address: 435 S. Curson Avenue, Los Angeles, CA 90036

Full Name Inventor: Robert I. Lehrer

Signature: Robert I. Lehrer

Date Nov 15, 1995

Residence: Santa Monica, CA 90403

Citizenship: USA

Post Office Address: 2730 Washington Avenue, Santa Monica, CA 90403;

Full Name Inventor: Sylvia S.L. Harwig

Signature: Sylvia S.L. Harwig

Date 11/28/95

Residence: Woodland Hills, California 91364

Citizenship: USA

Post Office Address: 911 Woodland Crest Drive, Woodland Hills, California 91364

Full Name Inventor: Vladimir N. Kokryakov

Signature: _____

Date _____

Residence: Los Angeles, CA 90036

Citizenship: USA

Post Office Address: 435 S. Curson Avenue, Los Angeles, CA 90036

Full Name Inventor: Robert L. LehrerSignature: Robert L. LehrerDate 9/20/95Residence: Santa Monica, CA 90403Citizenship: USAPost Office Address: 2730 Washington Avenue, Santa Monica, CA 90403Full Name Inventor: Sylvia S.L. HarwigSignature: Sylvia S.L. HarwigDate 9/20/95Residence: Woodland Hills, California 91364Citizenship: USAPost Office Address: 911 Woodland Crest Drive, Woodland Hills, California 91364Full Name Inventor: Vladimir N. Kokryakov 3-00Signature: KokryDate 10-23-95Residence: 195030, St. Petersburg, RussiaCitizenship: Russian RUXPost Office Address: Udarnikov Av., 41-1-366

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: ☒ Application of: Lehrer *et al.*
☐ Patent of:

☒ Serial No.: 09/128,345
☐ Patent No.:

Group Art Unit: 1652

☒ Filed: August 3, 1998
☐ Issued:

Examiner: W. Moore

For: PROTEGRINS

Attorney Docket No.: 8067-054-999

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
[37 CFR 1.9(f) and 1.27(d)] - Nonprofit Organization

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

Name of organization The Regents of the University of California

Address of organization 1111 Franklin Street, 3rd Floor 12th Floor
Oakland, CA 94607

Type of organization

- ☒ University or other institution of higher education
☐ Tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3))
☐ Nonprofit scientific or educational under statute of state of the United States of America
(Name of state _____)
(Citation of statute _____)
☐ Would qualify as tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3)) if located in the United States of America.
☐ Would qualify as nonprofit scientific or educational under statute of state of the United States of America if located in the United States of America
(Name of state _____)
(Citation of statute _____)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled **PROTEGRINS** by inventor(s) Robert I. Lehrer, Sylvia S.L. Harwig, and Vladimir N. Kokryakov described in

- ☐ the specification filed herewith
☒ application serial no. 09/128,345 filed August 3, 1998
☐ patent no. _____ issued

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization identified above and/or there is an obligation under contract or law by the inventor(s) to convey rights to the nonprofit organization identified above with regard to the invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

FULL NAME IntraBiotics Pharmaceuticals, Inc.

ADDRESS 1255 Terra Bella

Mountain View, CA 94043

☐ INDIVIDUAL

☒ SMALL BUSINESS CONCERN

☐ NONPROFIT
ORGANIZATION

FULL NAME _____

ADDRESS _____

☐ INDIVIDUAL

☐ SMALL BUSINESS CONCERN

☐ NONPROFIT
ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28 (b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

Send correspondence to:

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, N.Y. 10036-2711

Direct Telephone calls to:

PENNIE & EDMONDS LLP
(212) 790-9090

Name of person signing Linda S. Stevenson

Title of person other than owner Principal Prosecution Analyst

Address of person signing 1111 Franklin Street, 5th Floor
Oakland, CA 94607-5200

Signature _____

Linda S. Stevenson

Date October 11, 1999

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities.
(37 CFR 1.27)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: ☒ Application of: Lehrer *et al.*
☐ Patent of:

☒ Application No.: 09/128,345
☐ Patent No.:

Group Art Unit: 1652

☒ Filed: August 3, 1998
☐ Issued:

Examiner: W. Moore

For: PROTEGRINS

Attorney Docket No.:
8067-054-999

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
[37 CFR 1.9(f) and 1.27(c)] - Small Business Concern

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
- ☒ an official of the small business concern empowered to act in behalf of the concern identified below:

Name of concern IntraBiotics Pharmaceuticals, Inc.

Address of concern 1255 Terra Bella Avenue
Mountain View, California 94043

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the person employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern and/or there is an obligation under contract or law by the inventor(s) to convey rights to the small business concern with regard to the invention, entitled PROTEGRINS by inventor(s) Lehrer, et al. described in

- ☐ the specification filed herewith
- ☒ application no. 09/128,345 filed August 3, 1998
- ☐ patent no. issued

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

FULL NAME Pharmaceuticals, Inc.
ADDRESS 125 Terra Bella Avenue
Mountain View, California 94043
☐ INDIVIDUAL ☒ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

FULL NAME University of California, Los Angeles
ADDRESS 1106 Ueberroth Building, 405 Hilgard Avenue
Los Angeles, CA 90024-1406
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☒ NONPROFIT ORGANIZATION

FULL NAME _____
ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

FULL NAME _____
ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28 (b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

Send correspondence to: PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, N.Y. 10036-2711
Direct Telephone calls to:
PENNIE & EDMONDS LLP
(212) 790-9090

Name of person signing JOHN C. FIDDES
Title of person other than owner Vice President Research & Development
Address of person signing 1255 Terra Bella Avenue
Mountain View, California 94043
Signature [Signature]
Date 10.5.99

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities.
(37 CFR 1.27)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: LEHRER *et al.*

Group Art Unit: 1652

Serial No.: 09/128,345

Examiner: Moore, W.

Filing Date: August 3, 1998

Attorney Docket No.: 8067-0054-999

For: PROTEGRINS

Date: October 29, 1999

REQUEST TO ESTABLISH SMALL ENTITY STATUS

Assistant Commissioner for Patents
U.S. Patent and Trademark Office
Washington D.C. 20231

Sir:

Applicants transmit herewith Verified Statements of Small Entity Status under 37 C.F.R. § 1.27(a) for IntraBiotics, Inc. and University of California, both of which qualify as a Small Entity under 37 C.F.R. §§ 1.9 (f) . It is respectfully requested that the application be accorded Small Entity Status in accordance with 37 C.F.R. §§ 1.9(f) and 1.27(d).

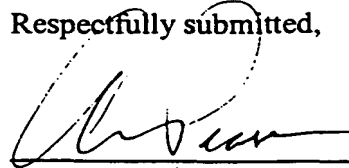
Applicants also request a Refund under 37 CFR § 1.28 for the portion of fees paid prior to establishing status as a small entity. An Amendment under 37 CFR § 1.111 and an Extension of Time were filed, September 29, 1999. The request for a refund of the excess amount of fees is timely made because it is being submitted within the two-month time period allowed under 37 C.F.R. § 1.28(a).

On September 29, 1999, Applicants authorized \$950.00 be charged to the Pennie & Edmonds Deposit Account No. 16-1150. This sum represents the fee afforded to large entities according to the 1998 Schedule.

We believe that the current correct fee for a small entity is \$435.00. Accordingly, Applicants hereby request that the amount of \$515.00 be credited to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.

No further fee is believed to be due with this filing. However, should the Commissioner determine otherwise, he is authorized to charge the required fee to the Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,



Ann M. Caviani Pease

42,067

(Reg. No.)

For: Laura A. Coruzzi (Reg. No. 30,742)
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, NY 10036-2711
(650) 493-4935